

FILED

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John Barrett

Clerk of Circuit Court

2019CV002798

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

KEITH R. REINHARD and
STACY REINHARD,

Plaintiffs,

AMERISURE INSURANCE COMPANY
and DEAN HEALTH PLAN,

Involuntary Plaintiffs,

v.

Case No.: 19-CV-2798

Case Code: 30100

JPW INDUSTRIES, INC.,
V-BELT GLOBAL SUPPLY, LLC,
USA BEARINGS & BELTS,
QUALITY BEARINGS BELTS AND CHAIN,
ABC INSURANCE COMPANY,
DEF CORPORATION and
GHI INSURANCE COMPANY,

Defendants.

ANSWER AND AFFIRMATIVE DEFENSES

NOW COMES the Defendant, USA Bearings and Belts, and as and for the answer to the plaintiff's amended complaint hereby allege and show the Court as follows:

1. In answer to paragraph 1 of the complaint, based on the representations of counsel, admits.

2. In answer to paragraph 2 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 2, and therefore, denies the same and puts the plaintiffs to their proof thereon.

3. In answer to paragraph 3 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 3, and therefore, denies the same and puts the plaintiffs to their proof thereon.

4. In answer to paragraph 4 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 4, and therefore, denies the same and puts the plaintiffs to their proof thereon.

5. In answer to paragraph 5 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 5, and therefore, denies the same and puts the plaintiffs to their proof thereon.

6. In answer to paragraph 6 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 6, and therefore, denies the same and puts the plaintiffs to their proof thereon.

7. In answer to paragraph 7 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 7, and therefore, denies the same and puts the plaintiffs to their proof thereon.

8. In answer to paragraph 8 of the complaint, admits that USA Bearings and Belts. is in the business of distributing certain products; deny knowledge or information sufficient to form a belief as to each and every remaining allegation contained in paragraph 8, and therefore deny the same and put the plaintiffs to their proof thereon.

9. In answer to paragraph 9 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 9, and therefore, denies the same and puts the plaintiffs to their proof thereon.

10. In answer to paragraph 10 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 10, and therefore, denies the same and puts the plaintiffs to their proof thereon.

11. In answer to paragraph 11 of the complaint, denies knowledge or

information sufficient to form a belief as to each and every allegation contained in paragraph 11, and therefore, denies the same and puts the plaintiffs to their proof thereon.

12. In answer to paragraph 12 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 12, and therefore, denies the same and puts the plaintiffs to their proof thereon.

13. In answer to paragraph 13 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 13, and therefore, denies the same and puts the plaintiffs to their proof thereon.

14. In answer to paragraph 14 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 14, and therefore, denies the same and puts the plaintiffs to their proof thereon.

15. In answer to paragraph 15 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 15, and therefore, denies the same and puts the plaintiffs to their proof thereon.

16. In answer to paragraph 16 of the complaint, denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 16, and therefore, denies the same and puts the plaintiffs to their proof thereon.

17. The answering defendant realleges and incorporates by reference herein all answers and affirmative pleadings in paragraphs 1 -16 as though set forth in full.

18. The answering defendant denies each and every allegation in paragraph 18 as it pertains to the answering defendant and denies any allegations or implications of negligence or strict liability responsibility on the part of this answering defendant in any manner or respect whatsoever.

19. The answering defendant denies each and every allegation in paragraph 19 as it pertains to the answering defendant and denies any allegations or implications of negligence or strict liability responsibility on the part of this answering defendant in any manner or respect whatsoever.

20. In answer to paragraph 20, denies.

21. The answering defendant realleges and incorporates by reference herein all answers and affirmative pleadings in paragraphs 1 -20 as though set forth in full.

22. The answering defendant denies each and every allegation in paragraph 22 as it pertains to the answering defendant and denies any allegations or implications of negligence or strict liability responsibility on the part of this answering defendant in any manner or respect whatsoever.

23. The answering defendant denies each and every allegation in paragraph 23 as it pertains to the answering defendant and denies any allegations or implications of negligence or strict liability responsibility on the part of this answering defendant in any manner or respect whatsoever.

24. The answering defendant denies each and every allegation in paragraph 24, including all parts (a) – (e), as it pertains to the answering defendant and denies any allegations or implications of negligence or strict liability responsibility on the part of this answering defendant in any manner or respect whatsoever.

25. In answer to paragraph 25, denies.

26. The answering defendants realleges and incorporates by reference herein all answers and affirmative pleadings in paragraphs 1 -25 as though set forth in full.

27. The answering defendant denies each and every allegation in paragraph 27

as it pertains to the answering defendant and denies any allegations or implications of negligence or strict liability responsibility on the part of this answering defendant in any manner or respect whatsoever.

28. The answering defendant denies each and every allegation in paragraph 28 as it pertains to the answering defendant and denies any allegations or implications of negligence or strict liability responsibility on the part of this answering defendant in any manner or respect whatsoever.

29. In answer to paragraph 29, denies.

AFFIRMATIVE DEFENSES

NOW COMES the defendant, USA Bearings and Belt, and as and for its affirmative defenses, hereby alleges and shows the Court as follows:

1. That any injuries and/or damages allegedly sustained by the plaintiffs may have been caused or contributed to by the negligent and careless conduct of the plaintiff.

2. That any injuries and/or damages allegedly sustained by the plaintiff may have been caused or contributed to by acts or omissions of another or others for whose conduct these answering defendants are not responsible and for whose conduct these answering defendants had no reason to anticipate.

3. That the plaintiff may have failed to mitigate their damages.

4. That the plaintiffs may have failed to join necessary and indispensable parties.

5. That the plaintiffs may have failed to state claims against these answering defendant upon which relief can be granted.

6. That the Court may lack jurisdiction over these answering defendant in that the summons and complaint were not served and/or improperly served and not in accordance with Wisconsin statutes.

7. That the Court may lack jurisdiction over the answering defendant in that the Court does not have proper personal jurisdiction over these defendants.

8. That the answering defendant is a distributor/seller and is not liable pursuant to §895.047(2).

9. That any injuries and/or damages allegedly sustained by the plaintiff may have been the result of intervening or superseding causes.

10. That any injuries and/or damages allegedly sustained by the plaintiff may have been the result of abuse or misuse of the product in question.

11. That any injuries and/or damages allegedly sustained by the plaintiff may have been caused as a result of modifications and alterations of the product in question once it left the custody and control of these answering defendants.

12. That the plaintiff's claims may be barred as a result of spoliation of evidence.

13. That upon information and belief the product in question met and exceeded all standards in the industry at the time it was manufactured and sold.

14. That any injuries and/or damages allegedly sustained by the plaintiff may have compensated by insurance and/or public assistance in addition to the alleged payments made by the parties herein, and to the extent of such compensation the plaintiff has failed to join necessary and indispensable parties pursuant to §803.03, Wis. Stats., and is not entitled to bring claim for said payments.

15. That these answering third party defendants reserve the right to assert any and all additional affirmative defenses contained in §802.06, Wis. Stats.

CROSS-CLAIM

The defendant, USA Bearings & Belts, as and for a Cross-Claim against all other co-defendants named above, alleges as follows:

1. These cross-claiming defendants reallege and incorporate herein by reference all previous admissions, denials, and affirmative statements.

2. In the event USA Bearings & Belts and any other defendants are found to be jointly responsible for the accident, then USA Bearings & Belt may be entitled to contribution and/or indemnification according to law from any other co-defendant named herein that is found to be at fault for plaintiffs' alleged injuries.

ANSWER TO ANY CROSS-CLAIMS

The defendant, USA Bearings & Belt, as and for an Answer to any Cross-Claims, respond as follows:

1. Deny that USA Bearings & Belt is liable to any other party for damages based upon indemnification, contribution, subrogation or assignment.


WHEREFORE, the defendants hereby demand judgment as follows:

1. Dismissal of the claims against the answering defendant.
2. Its cost and disbursement as allowed by law.
3. Such other relief as the Court may deem just and equitable.

DEFENDANT MAKES A JURY DEMAND OF 12 PERSONS.

Dated at Milwaukee, Wisconsin this 18th day of June 2019.

LAW OFFICES OF JOSEPH A. MARCINIAK
Attorneys for USA Bearings & Belts



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